

Internal Revenue Service

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Department of the Treasury
Washington, DC 20224

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

Refer Reply To:
CC:PSI:B01
PLR-141233-14

Date:
May 04, 2015

LEGEND

X =

CFC =

Trust =

Trustee =

Business =

Regulatory Body =

Date 1 =

Date 2 =

State A =

Country A =

Jurisdiction 1 =

Jurisdiction 2 =

Treaty =

Trust Deed =

Law =

Dear :

This responds to a letter dated November 3, 2014, and subsequent correspondence, submitted on behalf of X, CFC, Trustee and Trust, requesting a ruling on the application of § 671 and § 7701 of the Internal Revenue Code.

FACTS

The following facts and representations were submitted by X:

X is a corporation organized under the laws of State A. As of Date 2, X is the owner of CFC, a limited company incorporated in Jurisdiction 1 in Country A. CFC is a controlled foreign corporation within the meaning of § 957(a) of the Code. CFC is engaged in Business in Country A.

CFC established Trust by Trust Deed. Trust is governed by the laws of Jurisdiction 2 in Country A. Under Law, Trust is a validly created trust. Trust is required to file tax returns in Country A and has a Country A tax identification number.

CFC utilizes Trust to satisfy its requirements under Law to segregate, hold, and invest assets to ensure that CFC is able to meet its obligations with respect to Business. Trust and CFC are regulated by several government bodies in Country A, including Regulatory Body.

Trustee is the trustee of Trust. Trustee is a limited company incorporated in Jurisdiction 2 in Country A on Date 1. Trustee was formed for the main purpose of serving as the trustee of Trust. Under the Trust Deed, Trustee has broad powers to manage Trust assets, including the power to buy and sell assets. Trustee has a duty to preserve and protect the assets of Trust under Law. Trustee has an investment agreement with an external asset manager. The investment agreement provides that the investment policy of Trust is conservative and the objective of the investment strategy is to protect and conserve Trust assets for the benefit of CFC to ensure that it has adequate resources as required under Law.

The ownership of Trust is divided into units. Each unit represents an undivided beneficial interest in the assets of Trust. CFC has at all times been the sole unitholder

of Trust. CFC may not unilaterally assign or transfer all or a portion of its interest in Trust without the consent of Trustee. X represents that, given the purpose of Trust, it is not contemplated that CFC would transfer its interest in Trust.

Under the Trust Deed, all of Trust's net income is required to be distributed annually to CFC, as the sole unitholder of Trust. Trustee has discretion to distribute principal to CFC. CFC may redeem its interest in Trust at any time, although in certain cases, CFC may have to wait up to sixty days. CFC, as the sole unitholder, may also amend or revoke Trust.

You have requested the following rulings:

1. Trust is classified as a trust for federal tax purposes under § 301.7701-4(a) of the Procedure and Administration regulations.
2. CFC will be treated as the owner of Trust for purposes of § 671 of the Code.

LAW AND ANALYSIS

Ruling 1

Section 301.7701-1(a) provides, in part, that the Code prescribes the classification of various organizations for federal tax purposes. Whether an organization is an entity separate from its owners for federal tax purposes is a matter of federal tax law and does not depend on whether the organization is recognized as an entity under local law.

Section 301.7701-1(b) provides that the classification of organizations that are recognized as separate entities is determined under §§ 301.7701-2, 301.7701-3, and 301.7701-4 unless a provision of the Code provides for special treatment of that organization.

Section 301.7701-4(a) provides, in part, that generally the term “trust” as used in the Code refers to an arrangement created either by a will or by an inter vivos declaration whereby trustees take title to property for the purpose of protecting or conserving it for the beneficiaries under the ordinary rules applied in chancery or probate court. Usually the beneficiaries of such a trust do no more than accept the benefits thereof and are not the voluntary planners or creators of the trust arrangement. However, the beneficiaries of such a trust may be the persons who create it and it will be recognized as a trust under the Code if it was created for the purpose of protecting or conserving the trust property for beneficiaries who stand in the same relation to the trust as they would if the trust had been created by others for them. Generally, an arrangement will be treated as a trust under the Code if it can be shown that the purpose of the arrangement is to vest in trustees responsibility for the protection and conservation of property for beneficiaries who cannot share in the discharge of this responsibility and, therefore, are not associates in a joint enterprise for the conduct of business for profit.

Based solely on the facts submitted and representations made, we conclude that Trust is classified as a trust for federal tax purposes under § 301.7701-4(a).

Ruling 2

Section 671 provides, in part, that where it is specified in subpart E, part I, subchapter J (Subpart E) that the grantor or another person shall be treated as the owner of any portion of a trust, there shall then be included in computing the taxable income and credits of the grantor or the other person those items of income, deductions, and credits against tax of the trust which are attributable to that portion of the trust to the extent that such items would be taken into account under this chapter in computing taxable income or credits against the tax of an individual.

Section 672(f)(1) and § 1.672(f)-1 provide that subpart E (§§ 671 through 679) applies only to the extent such application results in an amount (if any) being currently taken into account (directly or through one or more entities) under this chapter in computing the income of a citizen or resident of the United States or a domestic corporation.

Section 672(f)(3)(A) provides, in part, that a controlled foreign corporation (as defined in § 957) shall be treated as a domestic corporation for purposes of § 672(f)(1).

Section 676(a) provides that the grantor shall be treated as the owner of any portion of a trust, whether or not he is treated as such owner under any other provision of part I, subchapter J, chapter 1, where at any time the power to revest in the grantor title to such portion is exercisable by the grantor or a nonadverse party, or both.

Section 677(a) provides, in part, that the grantor is treated as the owner of any portion of a trust whose income, without the approval or consent of any adverse party is, or, in the discretion of the grantor or a nonadverse party, or both, may be distributed, or held or accumulated for future distribution, to the grantor or the grantor's spouse.

According to the information submitted, CFC is a controlled foreign corporation as defined in § 957. Thus, § 672(f)(1) will not prevent CFC from being treated as the owner of Trust for purposes of § 671 if CFC is otherwise treated as the owner under Subpart E.

Under the Trust Deed, Trustee is required to pay all Trust income to CFC and Trustee is authorized to pay, in its discretion, amounts from principal to CFC. Further, CFC may amend or revoke trust or alternatively redeem its interest in Trust at any time. Therefore, CFC will be treated as the owner of Trust under §§ 676(a) and 677(a).

CONCLUSION

Based solely on the facts submitted and the representations made, we conclude as follows as of Date 2:

1. Trust is classified as a trust for federal tax purposes under § 301.7701-4(a).
2. CFC will be treated as the owner of Trust for purposes of § 671.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Except as specifically set forth above, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter. Specifically, no opinion is expressed regarding Trust or CFC's entitlement to treaty benefits under Treaty, which depends on the tax classification of Trust under Country A law and not United States tax law. Further, this ruling will be void if Trust has more than one holder of unit interests.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) provides that it may not be used or cited as precedent.

Pursuant to a power of attorney on file with this office, a copy of this letter is being sent to X's authorized representative.

Sincerely,

Faith P. Colson
Faith P. Colson
Senior Counsel, Branch 1
Office of the Associate Chief Counsel
(Passthroughs & Special Industries)

Enclosures (2)

Copy of this letter
Copy of this letter for section 6110 purposes

cc: